



February 8, 2019

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## HOUSE BILL No. 1444

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DIGEST OF HB 1444 (Updated February 6, 2019 3:04 pm - DI 134)

**Citations Affected:** IC 6-2.5; IC 6-7; IC 6-8.1; IC 35-52.

**Synopsis:** Taxation of electronic cigarettes. Imposes a tax on electronic cigarettes that contain nicotine at a rate of \$0.04 per fluid milliliter of consumable material. Deposits the revenue from the tax in the state general fund.

**Effective:** July 1, 2019.

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### Brown T, Huston, Karickhoff

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January 15, 2019, read first time and referred to Committee on Ways and Means.  
February 7, 2019, amended, reported — Do Pass.

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HB 1444—LS 7490/DI 134





February 8, 2019

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

## HOUSE BILL No. 1444

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A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-2.5-4-1, AS AMENDED BY P.L.227-2013,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 1. (a) A person is a retail merchant making a retail  
4 transaction when the person engages in selling at retail.  
5 (b) A person is engaged in selling at retail when, in the ordinary  
6 course of the person's regularly conducted trade or business, the  
7 person:  
8 (1) acquires tangible personal property for the purpose of resale;  
9 and  
10 (2) transfers that property to another person for consideration.  
11 (c) For purposes of determining what constitutes selling at retail, it  
12 does not matter whether:  
13 (1) the property is transferred in the same form as when it was  
14 acquired;  
15 (2) the property is transferred alone or in conjunction with other  
16 property or services; or  
17 (3) the property is transferred conditionally or otherwise.

HB 1444—LS 7490/DI 134



1 (d) Notwithstanding subsection (b), a person is not selling at retail  
 2 if the person is making a wholesale sale as described in section 2 of this  
 3 chapter. However, in the case of sales of gasoline (as defined in  
 4 IC 6-6-1.1-103), a person shall collect the gasoline use tax as provided  
 5 in IC 6-2.5-3.5.

6 (e) The gross retail income received from selling at retail is only  
 7 taxable under this article to the extent that the income represents:

8 (1) the price of the property transferred, without the rendition of  
 9 any service; and

10 (2) except as provided in subsection (g), any bona fide charges  
 11 which are made for preparation, fabrication, alteration,  
 12 modification, finishing, completion, delivery, or other service  
 13 performed in respect to the property transferred before its transfer  
 14 and which are separately stated on the transferor's records.

15 For purposes of this subsection, a transfer is considered to have  
 16 occurred after delivery of the property to the purchaser.

17 (f) Notwithstanding subsection (e):

18 (1) in the case of retail sales of special fuel (as defined in  
 19 IC 6-6-2.5-22), the gross retail income received from selling at  
 20 retail is the total sales price of the special fuel minus the part of  
 21 that price attributable to tax imposed under IC 6-6-2.5 or Section  
 22 4041(a) or Section 4081 of the Internal Revenue Code; ~~and~~

23 (2) in the case of retail sales of cigarettes (as defined in  
 24 IC 6-7-1-2), the gross retail income received from selling at retail  
 25 is the total sales price of the cigarettes, including the tax imposed  
 26 under IC 6-7-1; **and**

27 **(3) in the case of retail sales of consumable materials or vapor**  
 28 **products, such as electronic cigarettes, the gross retail income**  
 29 **received from selling at retail is the total sales price of the**  
 30 **vapor product or consumable materials, including the tax**  
 31 **imposed under IC 6-7-5.**

32 (g) Gross retail income does not include income that represents  
 33 charges for serving or delivering food and food ingredients furnished,  
 34 prepared, or served for consumption at a location, or on equipment,  
 35 provided by the retail merchant. However, the exclusion under this  
 36 subsection only applies if the charges for the serving or delivery are  
 37 stated separately from the price of the food and food ingredients when  
 38 the purchaser pays the charges.

39 SECTION 2. IC 6-7-5 IS ADDED TO THE INDIANA CODE AS  
 40 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 41 1, 2019]:

42 **Chapter 5. Electronic Cigarette Tax**



1           **Sec. 1.** As used in this chapter, "consumable material" means  
2 any liquid nicotine solution or other material containing nicotine  
3 that is depleted as a vapor product is used. The term includes the  
4 liquid nicotine in a solution or other form contained in any  
5 cartridge or container that is intended to be used with or in a vapor  
6 product, including a cartridge contained within a vapor product  
7 sold for a single price, but does not include any product regulated  
8 by the United States Food and Drug Administration under Chapter  
9 V of the federal Food, Drug, and Cosmetic Act.

10           **Sec. 2.** As used in this chapter, "distributor" means a person  
11 that:

12           (1) manufactures, sells, barter, exchanges, or distributes  
13 vapor products, consumable materials, or both;

14           (2) purchases vapor products, consumable materials, or both  
15 directly from a manufacturer of vapor products, consumable  
16 materials, or both; or

17           (3) purchases for resale vapor products, consumable  
18 materials, or both from a wholesaler, jobber, or distributor  
19 outside Indiana.

20           **Sec. 3.** As used in this chapter, "manufacturer" means a person  
21 within or outside Indiana that:

22           (1) produces vapor products, consumable materials, or both;  
23 or

24           (2) contracts with another person to produce vapor products,  
25 consumable materials, or both, and is the exclusive purchaser  
26 of the products under the contract.

27 The term includes a retail dealer that produces or mixes  
28 consumable materials at its retail location.

29           **Sec. 4.** As used in this chapter, "retail dealer" means a person  
30 engaged in the business of selling vapor products, consumable  
31 materials, or both to ultimate consumers.

32           **Sec. 5.** As used in this chapter, "vapor product" means a device,  
33 such as an electronic cigarette, that employs a mechanical heating  
34 element, battery, or electronic circuit, regardless of shape or size,  
35 that can be used to produce vapor from a consumable material.

36           **Sec. 6. (a)** The electronic cigarette tax is imposed on the  
37 distribution of consumable material in Indiana at the rate of four  
38 cents (\$0.04) per fluid milliliter of consumable material. If the tax  
39 calculated for a fractional part of a milliliter carried to the third  
40 decimal place results in the numeral in the third decimal place  
41 being greater than four (4), the amount of the tax is rounded to the  
42 next additional cent.



1           (b) Except as provided in subsection (c), the distributor of the  
2 consumable materials, including a person that sells consumable  
3 materials through an Internet web site, is liable for the tax imposed  
4 under subsection (a). After June 30, 2019, the tax is imposed at the  
5 time the distributor:

6           (1) brings or causes consumable materials to be brought into  
7 Indiana for distribution or sale;

8           (2) manufactures consumable materials in Indiana for  
9 distribution;

10           (3) transports consumable materials to retail dealers in  
11 Indiana for resale by those retail dealers; or

12           (4) first possesses the consumable materials in Indiana in a  
13 distributor to distributor transaction.

14           (c) A consumer who purchases consumable materials, including  
15 consumable materials purchased through an Internet web site,  
16 upon which:

17           (1) the tax imposed under subsection (a) has never been paid;  
18 and

19           (2) the consumer has not paid the tax;

20 is liable for the tax and shall remit the tax to the department on a  
21 form prescribed by the department.

22           Sec. 7. Before the fifteenth day of each month, a distributor  
23 liable for the tax imposed under this chapter shall:

24           (1) file a return with the department that includes all  
25 information required by the department, including the:

26                   (A) name of the distributor;

27                   (B) address of the distributor;

28                   (C) invoice date;

29                   (D) invoice number; and

30                   (E) name and address of the person from whom  
31 consumable materials were purchased or the name and  
32 address of the person to whom consumable materials were  
33 sold; and

34           (2) pay the tax for which the distributor is liable under this  
35 chapter for the preceding month.

36 All returns required to be filed and taxes required to be paid under  
37 this chapter must be made in an electronic format prescribed by  
38 the department.

39           Sec. 8. (a) Every distributor, wholesaler, retail dealer, jobber,  
40 and subjobber shall keep and preserve for three (3) years records  
41 and invoices showing the purchase and sale of all consumable  
42 materials.



1 (b) All invoices for consumable materials must state the actual  
2 amount of consumable material in milliliters.

3 (c) Records and invoices for consumable materials must be open  
4 to inspection by the department at all reasonable times.

5 Sec. 9. (a) A distributor, including a person that sells  
6 consumable materials, vapor products, or both through an Internet  
7 web site, must obtain a license from the department before  
8 distributing consumable materials in Indiana.

9 (b) A retail dealer that is a manufacturer of consumable  
10 materials doing business in Indiana must first obtain a license from  
11 the department before selling consumable materials in Indiana.

12 (c) If a retailer dealer is also a distributor, only one (1) license  
13 is required.

14 Sec. 10. (a) The department shall issue licenses under this  
15 chapter to applicants that qualify under this section.

16 (b) A license issued under this section:

17 (1) is valid for one (1) year, unless revoked or suspended by  
18 the department; and

19 (2) is not transferable.

20 (c) An applicant for a license under this section must submit  
21 proof to the department of the appointment of an agent of service  
22 of process in Indiana if the applicant is:

23 (1) an individual whose principal place of residence is outside  
24 Indiana; or

25 (2) a person, other than an individual, that has its principal  
26 place of business outside Indiana.

27 (d) To obtain or renew a license under this section, a person  
28 must:

29 (1) submit, for each location where the person intends to  
30 distribute or sell consumable materials, an application upon  
31 a form prescribed by the department that includes all  
32 information required by the department;

33 (2) pay a fee of twenty-five dollars (\$25) at the time of the  
34 application; and

35 (3) in the case of a person who is a distributor at the time of  
36 the application, post a bond issued by a surety company  
37 approved by the department in an amount not less than one  
38 thousand dollars (\$1,000) that is conditioned on the  
39 applicant's compliance with this chapter.

40 (e) The department shall investigate each applicant for a license  
41 under this section. A license may not be issued if the department  
42 determines that any one (1) of the following exists:



- 1           (1) The application is not filed in good faith.  
 2           (2) The applicant is not the real party in interest.  
 3           (3) The license of the real party in interest has been revoked  
 4           for cause.  
 5           (4) Other reasonable cause for nonissuance exists.  
 6           (f) If business is transacted at two (2) or more places by one (1)  
 7 distributor or retail dealer, a separate license must be obtained for  
 8 each place of business.  
 9           (g) Each license issued under this section must:  
 10           (1) be numbered;  
 11           (2) show the name and address of the distributor or retail  
 12           dealer; and  
 13           (3) be posted in a conspicuous place at the place of business  
 14           for which the license is used.  
 15           (h) If the department determines that a bond provided by a  
 16 licensee under subsection (d)(3) is inadequate, the department may  
 17 require a new bond in the amount necessary to fully protect the  
 18 state.  
 19           (i) If a distributor or retail dealer changes its place of business:  
 20           (1) the distributor or retail dealer shall return its license to  
 21           the department; and  
 22           (2) the department shall issue a new license for the new place  
 23           of business free of charge.  
 24           Sec. 11. A license issued under this chapter may be surrendered  
 25 to the department at any time before its expiration, and the  
 26 department shall refund an amount of money that bears the same  
 27 proportion to the fee originally paid for the license as the  
 28 unexpired period of the license bears to one (1) year. However, no  
 29 refund may be allowed if the license is suspended or revoked.  
 30           Sec. 12. The department:  
 31           (1) may revoke or suspend a license issued under this chapter:  
 32           (A) for any violation of this chapter by the licensee; or  
 33           (B) if the licensee has an outstanding listed tax liability;  
 34           and  
 35           (2) may not issue a license under this chapter to an applicant  
 36           less than six (6) months after the revocation of that applicant's  
 37           license.  
 38           Sec. 13. The department shall credit or refund to a distributor  
 39 the tax paid under this chapter on consumable materials that are:  
 40           (1) shipped outside Indiana;  
 41           (2) returned to the manufacturer; or  
 42           (3) destroyed by the distributor in the presence of an



1           employee or agent of the department.

2           **Sec. 14.** A manufacturer, importer, broker, or shipper must  
3 register with the department before selling or otherwise  
4 distributing consumable materials to distributors in Indiana.

5           **Sec. 15.** A manufacturer, importer, broker, or shipper of  
6 consumable materials that sells or otherwise distributes  
7 consumable materials to distributors in Indiana shall, before the  
8 fifteenth day of each month, submit a report to the department of:

9           (1) all of its sales or other distributions to distributors in the  
10 preceding month; and

11           (2) any other information that the department may require to  
12 be reported that the department considers reasonably  
13 necessary.

14           The report submitted under this section must be in an electronic  
15 format prescribed by the department.

16           **Sec. 16.** A person who knowingly or intentionally distributes or  
17 sells consumable materials without a license issued under this  
18 chapter commits a Class B misdemeanor.

19           **Sec. 17.** A person who knowingly or intentionally does not  
20 comply with section 14 or 15 of this chapter commits a Class B  
21 misdemeanor.

22           **Sec. 18.** A person who knowingly or intentionally does not  
23 comply with:

24           (1) section 8 of this chapter; or

25           (2) IC 6-8.1-5-4;

26           commits a Class B misdemeanor.

27           **Sec. 19.** A distributor or retail dealer who knowingly:

28           (1) acts as a distributor or retail dealer without a license;

29           (2) makes a false statement in a report under this chapter; or

30           (3) in the case of distributor, does not pay the tax for which  
31 the distributor is liable under this chapter;

32           commits a Class B misdemeanor.

33           **Sec. 20.** A retail dealer who knowingly purchases consumable  
34 materials from a distributor who has not obtained a license  
35 required under section 9 of this chapter, or a distributor whose  
36 license has been suspended or revoked by the department, is  
37 subject to a civil penalty of an amount that does not exceed the  
38 greater of:

39           (1) five hundred percent (500%) of the retail value of the  
40 consumable materials; or

41           (2) five thousand dollars (\$5,000);

42           for each purchase.



1           **Sec. 21. All revenue from the tax imposed by this chapter must**  
 2 **be deposited in the state general fund.**

3           **Sec. 22. The department may adopt rules under IC 4-22-2**  
 4 **necessary to enforce this chapter.**

5           SECTION 3. IC 6-8.1-1-1, AS AMENDED BY P.L.212-2018(ss),  
 6 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2019]: Sec. 1. "Listed taxes" or "taxes" includes only the  
 8 pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the supplemental  
 9 wagering tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the  
 10 slot machine wagering tax (IC 4-35-8); the type II gambling game  
 11 excise tax (IC 4-36-9); the gross income tax (IC 6-2.1) (repealed); the  
 12 utility receipts and utility services use taxes (IC 6-2.3); the state gross  
 13 retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3);  
 14 the supplemental net income tax (IC 6-3-8) (repealed); the county  
 15 adjusted gross income tax (IC 6-3.5-1.1) (repealed); the county option  
 16 income tax (IC 6-3.5-6) (repealed); the county economic development  
 17 income tax (IC 6-3.5-7) (repealed); the local income tax (IC 6-3.6); the  
 18 auto rental excise tax (IC 6-6-9); the financial institutions tax (IC  
 19 6-5.5); the gasoline tax (IC 6-6-1.1); the special fuel tax (IC 6-6-2.5);  
 20 the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under  
 21 a reciprocal agreement under IC 6-8.1-3; the vehicle excise tax (IC  
 22 6-6-5); the aviation fuel excise tax (IC 6-6-13); the commercial vehicle  
 23 excise tax (IC 6-6-5.5); the excise tax imposed on recreational vehicles  
 24 and truck campers (IC 6-6-5.1); the hazardous waste disposal tax (IC  
 25 6-6-6.6) (repealed); the heavy equipment rental excise tax (IC 6-6-15);  
 26 the cigarette tax (IC 6-7-1); **the electronic cigarette tax (IC 6-7-5);**  
 27 the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the  
 28 wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5);  
 29 the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC  
 30 6-8-1); the various innkeeper's taxes (IC 6-9); the various food and  
 31 beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and  
 32 IC 6-9-28); the oil inspection fee (IC 16-44-2); the penalties assessed  
 33 for oversize vehicles (IC 9-20-3 and IC 9-20-18); the fees and penalties  
 34 assessed for overweight vehicles (IC 9-20-4 and IC 9-20-18); and any  
 35 other tax or fee that the department is required to collect or administer.

36           SECTION 4. IC 35-52-6-56.1 IS ADDED TO THE INDIANA  
 37 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
 38 [EFFECTIVE JULY 1, 2019]: **Sec. 56.1. IC 6-7-5-16 defines a crime**  
 39 **concerning the electronic cigarette tax.**

40           SECTION 5. IC 35-52-6-56.2 IS ADDED TO THE INDIANA  
 41 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
 42 [EFFECTIVE JULY 1, 2019]: **Sec. 56.2. IC 6-7-5-17 defines a crime**



1 **concerning the electronic cigarette tax.**

2 SECTION 6. IC 35-52-6-56.3 IS ADDED TO THE INDIANA  
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2019]: **Sec. 56.3. IC 6-7-5-18 defines a crime**  
5 **concerning the electronic cigarette tax.**

6 SECTION 7. IC 35-52-6-56.4 IS ADDED TO THE INDIANA  
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
8 [EFFECTIVE JULY 1, 2019]: **Sec. 56.4. IC 6-7-5-19 defines a crime**  
9 **concerning the electronic cigarette tax.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1444, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 27 through 29, begin a new line block indented and insert:

**"(3) in the case of retail sales of consumable materials or vapor products, such as electronic cigarettes, the gross retail income received from selling at retail is the total sales price of the vapor product or consumable materials, including the tax imposed under IC 6-7-5."**

Page 2, delete lines 37 through 42, begin a new paragraph and insert:

**"SECTION 2. IC 6-7-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:**

**Chapter 5. Electronic Cigarette Tax**

**Sec. 1. As used in this chapter, "consumable material" means any liquid nicotine solution or other material containing nicotine that is depleted as a vapor product is used. The term includes the liquid nicotine in a solution or other form contained in any cartridge or container that is intended to be used with or in a vapor product, including a cartridge contained within a vapor product sold for a single price, but does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.**

**Sec. 2. As used in this chapter, "distributor" means a person that:**

- (1) manufactures, sells, barter, exchanges, or distributes vapor products, consumable materials, or both;**
- (2) purchases vapor products, consumable materials, or both directly from a manufacturer of vapor products, consumable materials, or both; or**
- (3) purchases for resale vapor products, consumable materials, or both from a wholesaler, jobber, or distributor outside Indiana.**

**Sec. 3. As used in this chapter, "manufacturer" means a person within or outside Indiana that:**

- (1) produces vapor products, consumable materials, or both;**
- or**
- (2) contracts with another person to produce vapor products,**



consumable materials, or both, and is the exclusive purchaser of the products under the contract.

The term includes a retail dealer that produces or mixes consumable materials at its retail location.

Sec. 4. As used in this chapter, "retail dealer" means a person engaged in the business of selling vapor products, consumable materials, or both to ultimate consumers.

Sec. 5. As used in this chapter, "vapor product" means a device, such as an electronic cigarette, that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that can be used to produce vapor from a consumable material.

Sec. 6. (a) The electronic cigarette tax is imposed on the distribution of consumable material in Indiana at the rate of four cents (\$0.04) per fluid milliliter of consumable material. If the tax calculated for a fractional part of a milliliter carried to the third decimal place results in the numeral in the third decimal place being greater than four (4), the amount of the tax is rounded to the next additional cent.

(b) Except as provided in subsection (c), the distributor of the consumable materials, including a person that sells consumable materials through an Internet web site, is liable for the tax imposed under subsection (a). After June 30, 2019, the tax is imposed at the time the distributor:

- (1) brings or causes consumable materials to be brought into Indiana for distribution or sale;
- (2) manufactures consumable materials in Indiana for distribution;
- (3) transports consumable materials to retail dealers in Indiana for resale by those retail dealers; or
- (4) first possesses the consumable materials in Indiana in a distributor to distributor transaction.

(c) A consumer who purchases consumable materials, including consumable materials purchased through an Internet web site, upon which:

- (1) the tax imposed under subsection (a) has never been paid; and
- (2) the consumer has not paid the tax;

is liable for the tax and shall remit the tax to the department on a form prescribed by the department.

Sec. 7. Before the fifteenth day of each month, a distributor liable for the tax imposed under this chapter shall:

- (1) file a return with the department that includes all



information required by the department, including the:

- (A) name of the distributor;
- (B) address of the distributor;
- (C) invoice date;
- (D) invoice number; and
- (E) name and address of the person from whom consumable materials were purchased or the name and address of the person to whom consumable materials were sold; and

(2) pay the tax for which the distributor is liable under this chapter for the preceding month.

All returns required to be filed and taxes required to be paid under this chapter must be made in an electronic format prescribed by the department.

Sec. 8. (a) Every distributor, wholesaler, retail dealer, jobber, and subjobber shall keep and preserve for three (3) years records and invoices showing the purchase and sale of all consumable materials.

(b) All invoices for consumable materials must state the actual amount of consumable material in milliliters.

(c) Records and invoices for consumable materials must be open to inspection by the department at all reasonable times.

Sec. 9. (a) A distributor, including a person that sells consumable materials, vapor products, or both through an Internet web site, must obtain a license from the department before distributing consumable materials in Indiana.

(b) A retail dealer that is a manufacturer of consumable materials doing business in Indiana must first obtain a license from the department before selling consumable materials in Indiana.

(c) If a retailer dealer is also a distributor, only one (1) license is required.

Sec. 10. (a) The department shall issue licenses under this chapter to applicants that qualify under this section.

(b) A license issued under this section:

- (1) is valid for one (1) year, unless revoked or suspended by the department; and
- (2) is not transferable.

(c) An applicant for a license under this section must submit proof to the department of the appointment of an agent of service of process in Indiana if the applicant is:

- (1) an individual whose principal place of residence is outside Indiana; or



(2) a person, other than an individual, that has its principal place of business outside Indiana.

(d) To obtain or renew a license under this section, a person must:

(1) submit, for each location where the person intends to distribute or sell consumable materials, an application upon a form prescribed by the department that includes all information required by the department;

(2) pay a fee of twenty-five dollars (\$25) at the time of the application; and

(3) in the case of a person who is a distributor at the time of the application, post a bond issued by a surety company approved by the department in an amount not less than one thousand dollars (\$1,000) that is conditioned on the applicant's compliance with this chapter.

(e) The department shall investigate each applicant for a license under this section. A license may not be issued if the department determines that any one (1) of the following exists:

(1) The application is not filed in good faith.

(2) The applicant is not the real party in interest.

(3) The license of the real party in interest has been revoked for cause.

(4) Other reasonable cause for nonissuance exists.

(f) If business is transacted at two (2) or more places by one (1) distributor or retail dealer, a separate license must be obtained for each place of business.

(g) Each license issued under this section must:

(1) be numbered;

(2) show the name and address of the distributor or retail dealer; and

(3) be posted in a conspicuous place at the place of business for which the license is used.

(h) If the department determines that a bond provided by a licensee under subsection (d)(3) is inadequate, the department may require a new bond in the amount necessary to fully protect the state.

(i) If a distributor or retail dealer changes its place of business:

(1) the distributor or retail dealer shall return its license to the department; and

(2) the department shall issue a new license for the new place of business free of charge.

Sec. 11. A license issued under this chapter may be surrendered



to the department at any time before its expiration, and the department shall refund an amount of money that bears the same proportion to the fee originally paid for the license as the unexpired period of the license bears to one (1) year. However, no refund may be allowed if the license is suspended or revoked.

**Sec. 12. The department:**

- (1) may revoke or suspend a license issued under this chapter:
  - (A) for any violation of this chapter by the licensee; or
  - (B) if the licensee has an outstanding listed tax liability;
 and
- (2) may not issue a license under this chapter to an applicant less than six (6) months after the revocation of that applicant's license.

**Sec. 13. The department shall credit or refund to a distributor the tax paid under this chapter on consumable materials that are:**

- (1) shipped outside Indiana;
- (2) returned to the manufacturer; or
- (3) destroyed by the distributor in the presence of an employee or agent of the department.

**Sec. 14. A manufacturer, importer, broker, or shipper must register with the department before selling or otherwise distributing consumable materials to distributors in Indiana.**

**Sec. 15. A manufacturer, importer, broker, or shipper of consumable materials that sells or otherwise distributes consumable materials to distributors in Indiana shall, before the fifteenth day of each month, submit a report to the department of:**

- (1) all of its sales or other distributions to distributors in the preceding month; and
- (2) any other information that the department may require to be reported that the department considers reasonably necessary.

The report submitted under this section must be in an electronic format prescribed by the department.

**Sec. 16. A person who knowingly or intentionally distributes or sells consumable materials without a license issued under this chapter commits a Class B misdemeanor.**

**Sec. 17. A person who knowingly or intentionally does not comply with section 14 or 15 of this chapter commits a Class B misdemeanor.**

**Sec. 18. A person who knowingly or intentionally does not comply with:**

- (1) section 8 of this chapter; or



(2) IC 6-8.1-5-4;  
commits a Class B misdemeanor.

**Sec. 19. A distributor or retail dealer who knowingly:**

- (1) acts as a distributor or retail dealer without a license;
- (2) makes a false statement in a report under this chapter; or
- (3) in the case of distributor, does not pay the tax for which the distributor is liable under this chapter;

commits a Class B misdemeanor.

**Sec. 20. A retail dealer who knowingly purchases consumable materials from a distributor who has not obtained a license required under section 9 of this chapter, or a distributor whose license has been suspended or revoked by the department, is subject to a civil penalty of an amount that does not exceed the greater of:**

- (1) five hundred percent (500%) of the retail value of the consumable materials; or
- (2) five thousand dollars (\$5,000);

for each purchase.

**Sec. 21. All revenue from the tax imposed by this chapter must be deposited in the state general fund.**

**Sec. 22. The department may adopt rules under IC 4-22-2 necessary to enforce this chapter."**

Delete page 3.

Page 4, delete lines 1 through 4.

Page 4, line 26, delete "the e-liquids tax" and insert "**the electronic cigarette tax (IC 6-7-5);**".

Page 4, line 27, delete "(IC 6-7-5);".

Page 4, after line 36, begin a new paragraph and insert:

"SECTION 4. IC 35-52-6-56.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 56.1. IC 6-7-5-16 defines a crime concerning the electronic cigarette tax.**

SECTION 5. IC 35-52-6-56.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 56.2. IC 6-7-5-17 defines a crime concerning the electronic cigarette tax.**

SECTION 6. IC 35-52-6-56.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 56.3. IC 6-7-5-18 defines a crime concerning the electronic cigarette tax.**

SECTION 7. IC 35-52-6-56.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS



[EFFECTIVE JULY 1, 2019]: **Sec. 56.4. IC 6-7-5-19 defines a crime concerning the electronic cigarette tax."**

Renumber all SECTIONS consecutively.  
and when so amended that said bill do pass.

(Reference is to HB 1444 as introduced.)

HUSTON

Committee Vote: yeas 22, nays 1.

